

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

JOSHUA ORTIZ

v.

**CITY OF CORPUS CHRISTI, TEXAS
AND ROSS MURRAY, Individually.**

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CIVIL ACTION NO. 2:21-CV-00240

JURY

**DEFENDANT ROSS MURRAY'S ORIGINAL ANSWER
TO PLAINTIFF'S FIRST AMENDED ORIGINAL COMPLAINT**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE NELVA GONZALES RAMOS:

NOW COMES Defendant, Ross Murray, a certified peace officer of the State of Texas, serving as a police officer for the City of Corpus Christi, Texas and files this his Original Answer to Plaintiff's First Amended Original Complaint on file herein and for such answer would show the Court as follows:

RESPONSES TO INDIVIDUAL PARAGRAPHS

1. Without admitting that Plaintiff's claims are true, Defendant admits the allegation made in paragraph 1 of Plaintiff's First Amended Original Complaint that this Court has jurisdiction as well as supplemental jurisdiction, and that venue is proper in the Southern District of Texas, Corpus Christi Division. All remaining allegations in paragraph 1 of Plaintiff's First Amended Original Complaint that are not expressly admitted are denied.
2. Defendant lacks information upon which to admit or deny the allegation in paragraph 2 of Plaintiff's First Amended Original Complaint.
3. Defendant admits the statements made in paragraph 3 of Plaintiff's First Amended Original Complaint.
4. Without admitting that Plaintiff's claims are true, Defendant admits that he was, at all times

material to this suit, a duly certified peace officer of the State of Texas serving as a police officer for the City of Corpus Christi, Texas, and that he acted under color of state law. Defendant denies the remaining allegations set forth in paragraph 4 of Plaintiff's First Amended Original Complaint that have not been specifically admitted.

5. Without admitting that Plaintiff's claims are true, Defendant admits that he was at all times material to this lawsuit employed by the City of Corpus Christi as a police officer assigned to the Corpus Christi Police Department. Defendant denies the remaining allegations set forth in paragraph 5 of Plaintiff's First Amended Original Complaint.
6. Defendant denies the allegation in paragraph 6 of Plaintiff's First Amended Original Complaint that Plaintiff was "pulled over" on October 13, 2021. Defendant admits the allegation that Plaintiff was stopped by Defendant Murray for a moving violation. Defendant lacks information upon which to admit or deny Plaintiff's allegation that he was traveling from work when stopped by Defendant Murray. Defendant admits that Plaintiff was ordered to exit his vehicle. Defendant denies Plaintiff's allegations that he complied with Defendant Murray's instructions during the stop. Defendant denies the remaining allegations set forth in paragraph 6 of Plaintiff's First Amended Original Complaint.
7. Paragraph 7 of Plaintiff's First Amended Original Complaint does not require admission or denial.
8. The statement in paragraph 8 of Plaintiff's First Amended Original Complaint does not require admission or denial.
9. Defendant denies the statements and allegations set forth in paragraph 9 of Plaintiff's First Amended Original Complaint.

10. Defendant denies the statements and allegations set forth in paragraph 10 of Plaintiff's First Amended Original Complaint.
11. Paragraph 11 of Plaintiff's First Amended Original Complaint does not require admission or denial.
12. Defendant denies the statements and allegations set forth in paragraph 12 of Plaintiff's First Amended Original Complaint.
13. Defendant denies the statements and allegations set forth in paragraph 13 of Plaintiff's First Amended Original Complaint.
14. Defendant denies the statements and allegations set forth in paragraph 14 of Plaintiff's First Amended Original Complaint.
15. Defendant denies the allegations made in paragraph 15 of Plaintiff's First Amended Original Complaint. Defendant denies that Plaintiff is entitled to recover the damages sought.
16. Defendant denies the allegations made in paragraph 16 of Plaintiff's First Amended Original Complaint. Defendant denies that Plaintiff is entitled to recover special damages.
17. The statement and prayer made in paragraph 17 of Plaintiff's First Amended Original Complaint do not require admission or denial. Defendant denies that Plaintiff is entitled to the costs and attorney fees stated in paragraph 17 of Plaintiff's First Amended Original Complaint.

DEFENSES

18. Defendant asserts and would show that, at the time of the incident, he was a certified peace officer of the State of Texas serving as a police officer, that he was at all times acting in good faith belief that his actions were reasonable and proper, and that he is entitled to qualified

immunity and official immunity from the claims asserted by Plaintiff.

19. Defendant asserts and would show that his actions were based on probable cause, observation of an offense in his presence, and the existence of a valid arrest warrant.
20. Defendant asserts and would show that Plaintiff's acts of omission or commission were proximate causes of the actions he complains of and his alleged damages, if any.
21. Defendant asserts all the defenses and limitations of the Texas Tort Claims Act to the state law claims asserted.
22. Defendant asserts and would show that his use of force was justified.
23. Defendant reserves the right to assert any additional or affirmative defenses that may become apparent over the course of this lawsuit.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant Ross Murray prays that Plaintiff take nothing by his suit, that Defendant be allowed to recover his costs, and that the Court award this Defendant such other and further relief to which he may be justly entitled.

Respectfully submitted,

By: /s/James McKibben

James McKibben

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**ATTORNEYS FOR DEFENDANT
ROSS MURRAY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded, ***VIA
ELECTRONIC FILING***, to the below listed counsel, in accordance with the Federal Rules of Civil Procedure this 4th day of January, 2022.

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/s/ James McKibben
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